



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

IN THE MATTER OF	)	Docket No. CWA-08-2004-0014
	)	
Keith Johnson, Individually,	)	
1534 North First Avenue	)	
Fargo, North Dakota	)	<b>CONSENT AGREEMENT</b>
	)	
<u>Respondent.</u>	)	

Complainant, United States Environmental Protection Agency Region 8 (EPA), and Respondent, Keith Johnson, hereby consent and agree as follows.

1. On, November 18, 2003, Complainant issued to Respondent a Complaint alleging certain violations of the section 311(b)(6)(B)(ii) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §1321(b)(6)(B)(ii), as amended by the Oil Pollution Act of 1990.

2. This Consent Agreement shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

3. Respondent, stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives its right to a hearing, any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of this Consent Agreement.

4. Respondent, by executing this Consent Agreement, hereby certifies to EPA that it is now in compliance with each of the relevant provisions of section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. §1321(b)(6)(B)(ii).

5. Respondent consents to the payment of a civil penalty in the amount of ten thousand sixty four dollars (\$10,064).

6. Respondent agrees and consents to the following:

a. Within sixty days (60) of receipt of the Final Order issued by the Regional Judicial Officer, Respondent shall pay the agreed upon civil penalty in the amount of ten thousand sixty four dollars (\$10,064) by remitting a cashier's or certified check **payable to "Oil Spill Liability Trust Fund,"** with the docket number and Respondent's name written on the check, to:

Jane Nakad (8ENF-T)  
Technical Enforcement Program (8ENF-T)  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

The checks shall reference the name and address of Respondent's facility and the EPA docket number of this action.

b. **Copies of the cashier's or certified checks** shall be sent simultaneously to:

Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

and Brenda L. Morris (8ENF-L)  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

7. The penalty specified in Paragraph 5, above, shall represent civil penalties

assessed by EPA and shall not be deductible for purposes of Federal taxes.

8. Respondent further agrees and consents that if Respondent fails to pay the penalty amount within sixty (60) days of receipt of the Final Order, interest on the penalty amount shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of fifteen dollars (\$15.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days after receipt of the Final Order.

9. This Consent Agreement constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in the Complaint. Nothing in this Consent Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability, if any. Compliance with this Consent Agreement shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

10. Each undersigned representative of the parties to this Consent Agreement certifies that he/she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

11. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8  
Office of Enforcement, Compliance  
and Environmental Justice, Complainant.**

Date: 5/26/04

By: **SIGNED**  
Elisabeth Evans  
Director  
Technical Enforcement Program

Date: 5-26-04

By: **David J. Janik**  
Michael T. Risner, Director  
David Janik, Supervisor  
Legal Enforcement Program

Date: 5-24-04

By: **SIGNED**  
Brenda L. Morris, Attorney  
Legal Enforcement Program

**KEITH JOHNSON, Respondent.**

Date: 5-24-04

By: **SIGNED**  
  
**Keith Johnson**  
(Print name of signatory)

## **CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **KEITH JOHNSON, INIVIDUALLY DOCKET NO.: CWA-08-2004-0014** was filed with the Regional Hearing Clerk on May 27, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on May 27, 2004, to:

Craig E. Johnson, Esquire  
Johnson Ramstad & Mottinger  
15 South Ninth Street  
Fargo, ND 58103

and pouch mailed to:

Honorable Barbara A. Gunning  
Administrative Law Judge (1900L)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

and regular mail to:

Commander  
Finance Center (OGR)  
U.S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

May 27, 2004

**SIGNED**

\_\_\_\_\_  
Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE  
ON MAY 27, 2004.**

